UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,181	02/09/2004	Hiroshi Machino	1163-0491P	6757

2292   7590   08/10/2007
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
WEISKOPF, MARIE

ART UNIT	PAPER NUMBER
3661	

NOTIFICATION DATE	DELIVERY MODE
08/10/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

	Application No.	Applicant(s)
Office Action Summary	10/773,181	MACHINO, HIROSHI
	Examiner	Art Unit	
	Marie A. Weiskopf	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 May 2007</u>.

2a)☒ This action is **FINAL.** 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4,5 and 8-10* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4,5,8-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 4, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ito et al (US 6,470,266) in view of Inoue et al (US 6,295,503). Ito et al discloses a

vehicular navigation system using restricted-type road map data and Inoue et al

discloses a route setting device for setting a destination route from a departure point to

a destination.

- In regard to claim 4, Ito et al discloses a route searching apparatus comprising:

    o   A map data acquiring unit for acquiring map data defined by nodes and

        road links (Column 2, lines 42-44)

    o   A route searching unit for searching for a route to a destination in

        consideration of road links corresponding to specific roads, the road links

        being included in the map data acquired by the map data acquiring unit

        (Column 3, line 65 – Column 4, line 3; column 4, lines 28-32)

    o   An output unit for outputting the route searched for by the route searching

        unit (Column 3, lines 18-20)

    o   Wherein the route searching unit searches for the route to the destination

        while counting road links corresponding to specific roads included in the

map data acquired by the map data acquiring unit as targets to be

searched for (Column 4, lines 28-32)

Ito et al, however, fails to disclose on which determination of whether or not a

vehicle is allowed to travel can be performed according to a condition of the

vehicle, where the condition of the vehicle is set after the route is searched, when

the searched-for route includes a specific road. Ito et al discloses, as discussed

above, determines the shortest path for the vehicle which will include restricted-

type roads. (Column 4, lines 28-32) Ito et al discusses if a restricted-type road is

used in the travel path, the travel guidance is differentiated from the normal one

to indicate the restricted-type road and also there is a vocal announcement that

the restricted-type road is coming. (Column 6, lines 50-67) Inoue et al discusses

urging a message to the user for determining how many passengers are in the

vehicle. Upon the determination of how many passengers are in the vehicle,

Inoue et al then calculates the route accordingly. (Column 10, lines 54-65) It

would have been obvious to one having ordinary skill in the art at the time of the

invention to use the message urging and recalculation of the route if restricted-

road requirements are not met as taught by Inoue et al with the invention of Ito et

al in order to allow a user to find the shortest possible route and if the shortest

possible route includes restricted roads to then determine if they can drive on

these roads and if not, to find another route.

- In regard to claim 5, Ito et al discloses a route searching apparatus comprising:

- o A map data acquiring unit for acquiring map data defined by nodes and road links (Column 2, lines 42-44)

- o A route searching unit for searching for a route to a destination in consideration of road links corresponding to specific roads, the road links being included in the map data acquired by the map data acquiring unit (Column 3, line 65 – Column 4, line 3; column 4, lines 28-32)

- o An output unit for outputting the route searched for by the route searching unit (Column 3, lines 18-20)

- o Wherein the route searching unit searches for the route to the destination while counting road links corresponding to specific roads included in the map data acquired by the map data acquiring unit as targets to be searched for (Column 4, lines 28-32)

Ito et al, however, fails to disclose on which determination of whether or not a vehicle is allowed to travel can be performed according to a condition of the vehicle, where the condition of the vehicle is set after the route is searched and when the detecting unit detects that the vehicle reaches a predetermined region including a specific road, the route searching unit outputs a message to urge setting of the condition of the vehicle. Ito et al discloses, as discussed above, determines the shortest path for the vehicle which will include restricted-type roads. (Column 4, lines 28-32) Ito et al discusses if a restricted-type road is used in the travel path, the travel guidance is differentiated from the normal one to indicate the restricted-type road and also there is a vocal announcement that

the restricted-type road is coming. (Column 6, lines 50-67) Inoue et al discusses

urging a message to the user for determining how many passengers are in the

vehicle. Upon the determination of how many passengers are in the vehicle,

Inoue et al then calculates the route accordingly. (Column 10, lines 54-65) It

would have been obvious to one having ordinary skill in the art at the time of the

invention to use the message urging and recalculation of the route if restricted-

road requirements are not met as taught by Inoue et al with the invention of Ito et

al in order to allow a user to find the shortest possible route and if the shortest

possible route includes restricted roads to then determine if they can drive on

these roads and if not, to find another route.

- In regard to claim 8, Ito et al discloses a route searching apparatus comprising:

  o A map data acquiring unit for acquiring map data defined by nodes and
    road links (Column 2, lines 42-44)

  o A route searching unit for searching for a route to a destination in
    consideration of road links corresponding to specific roads, the road links
    being included in the map data acquired by the map data acquiring unit
    (Column 3, line 65 – Column 4, line 3; column 4, lines 28-32)

  o An output unit for outputting the route searched for by the route searching
    unit (Column 3, lines 18-20)

Ito et al, however, fails to disclose the route searching unit searches for the route

excluding the road links included in the map data acquired by the map data

acquiring unit and corresponding to the specific roads from targets to be

searched, when the searched-for route includes a specific road, the route

searching unit outputs a message to urge setting of the condition of the vehicle

and if the input to the message doesn't meet the requirements, the route

searching unit researches the route excluding the roads that don't meet the

requirement. Ito et al discloses, as discussed above, determines the shortest

path for the vehicle which will include restricted-type roads. (Column 4, lines 28-

32) Ito et al discusses if a restricted-type road is used in the travel path, the

travel guidance is differentiated from the normal one to indicate the restricted-

type road and also there is a vocal announcement that the restricted-type road is

coming. (Column 6, lines 50-67) Inoue et al discusses urging a message to the

user for determining how many passengers are in the vehicle. Upon the

determination of how many passengers are in the vehicle, Inoue et al then

calculates the route accordingly. (Column 10, lines 54-65) It would have been

obvious to one having ordinary skill in the art at the time of the invention to use

the message urging and recalculation of the route if restricted-road requirements

are not met as taught by Inoue et al with the invention of Ito et al in order to allow

a user to find the shortest possible route and if the shortest possible route

includes restricted roads to then determine if they can drive on these roads and if

not, to find another route.

- In regard to claim 9, Ito et al discloses a route searching apparatus comprising:
  - A map data acquiring unit for acquiring map data defined by nodes and
    road links (Column 2, lines 42-44)

- o A route searching unit for searching for a route to a destination in consideration of road links corresponding to specific roads, the road links being included in the map data acquired by the map data acquiring unit (Column 3, line 65 – Column 4, line 3; column 4, lines 28-32)

- o An output unit for outputting the route searched for by the route searching unit (Column 3, lines 18-20)

Ito et al, however, fails to disclose the route searching unit searches for the route excluding the road links included in the map data acquired by the map data acquiring unit and corresponding to the specific roads from targets to be searched, when the searched-for route includes a specific road, and the route searching unit outputs a message to urge setting of the condition of the vehicle. Ito et al discloses, as discussed above, determines the shortest path for the vehicle which will include restricted-type roads. (Column 4, lines 28-32) Ito et al discusses if a restricted-type road is used in the travel path, the travel guidance is differentiated from the normal one to indicate the restricted-type road and also there is a vocal announcement that the restricted-type road is coming. (Column 6, lines 50-67) Inoue et al discusses urging a message to the user for determining how many passengers are in the vehicle. Upon the determination of how many passengers are in the vehicle, Inoue et al then calculates the route accordingly. (Column 10, lines 54-65) It would have been obvious to one having ordinary skill in the art at the time of the invention to use the message urging and recalculation of the route if restricted-road requirements are not met as taught by Inoue et al with the invention of Ito et al in order to allow a user

to find the shortest possible route and if the shortest possible route includes

restricted roads to then determine if they can drive on these roads and if not, to find

another route.

- In regard to claim 10, Ito et al fails to disclose wherein the route searching unit

  also searches, prior to the setting of the condition, the route to the destination by

  excluding the road links included in the map data acquired by the map data

  acquiring unit and corresponding to the specific roads from targets to be

  searched for, where one of the searched routes for the route which includes road

  links corresponding to the specific roads or the route searching excluding road

  links corresponding to the specific roads is output based on the condition set. Ito

  et al discloses, as discussed above, determines the shortest path for the vehicle

  which will include restricted-type roads. (Column 4, lines 28-32) Ito et al

  discusses if a restricted-type road is used in the travel path, the travel guidance

  is differentiated from the normal one to indicate the restricted-type road and also

  there is a vocal announcement that the restricted-type road is coming. (Column

  6, lines 50-67) Inoue et al discusses urging a message to the user for

  determining how many passengers are in the vehicle. Upon the determination of

  how many passengers are in the vehicle, Inoue et al then calculates the route

  accordingly. (Column 10, lines 54-65) It would have been obvious to one having

  ordinary skill in the art at the time of the invention to use the message urging and

  recalculation of the route if restricted-road requirements are not met as taught by

  Inoue et al with the invention of Ito et al in order to allow a user to find the

shortest possible route and if the shortest possible route includes restricted roads

to then determine if they can drive on these roads and if not, to find another

route.

Response to Arguments

3.   Applicant's arguments filed 11/06/06 have been fully considered but they are not

persuasive. Applicant argues that Inoue fails to remedy the deficiencies of Ito.

Examiner respectfully disagrees. Ito, as discussed previously, determines the shortest

path for the vehicle which will include restricted-type roads. Ito et al discusses if a

restricted-type road is used in the travel path, the travel guidance is differentiated from

the normal one to indicate the restricted-type road and also there is a vocal

announcement that the restricted-type road is coming. Ito et al, as discussed above

also, fails to then set a condition to determine if the vehicle is allowed to travel on the

road. Inoue et al teaches the need to set a condition to be able to determine if a vehicle

can travel on a road, and if not, to then not include those restricted roads. Although in

Inoue et al it is taught to set the condition prior to the route search, it would have been

obvious to one having ordinary skill in the art at the time of the invention to prompt the

user for the condition when Ito et al announces the restricted road is coming. Instead of

the user making the decision by themselves to use the restricted road or not, as taught

in Ito et al, Inoue et al teaches the navigation system being able to determine itself

whether or not the vehicle can travel on the road by the condition set. If there is no

restricted road in the path, there is no need to change the travel guidance as discussed

by Ito et al. Further, applicant argues that in Inoue the route is calculated <u>after the</u>

<u>determination</u> and <u>not upon the determination.</u> Examiner agrees that Inoue teaches the route is calculated after the determination of the condition, however, upon the determination of the condition is in essence the same thing. Each is some period after the determination is set. Furthermore, Inoue et al is being used to teach that there is a necessity to be able to set a condition for restricted type roads and be able to reroute a user if they can not use the road, and it would have been obvious to one having ordinary skill in the art at the time of the invention to set that condition whenever was most convenient for the user and the navigation system. KSR forecloses the argument that a **specific** teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex parte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (citing *KSR*, 82 USPQ2d at 1396) (available at http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071925.pdf).
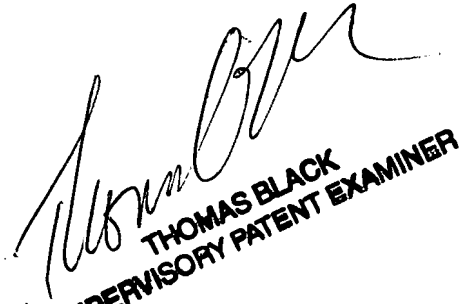
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie A. Weiskopf whose telephone number is (571) 272-6288. The examiner can normally be reached on Monday-Thursday between 7:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MW

THOMAS BLACK
SUPERVISORY PATENT EXAMINER